

O

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MARCUS LINTHECOME,	)	CASE NO. CV 18-5274-JGB (PJW)
	)	
Petitioner,	)	
	)	ORDER DISMISSING HABEAS CORPUS
v.	)	PETITION WITHOUT PREJUDICE AND
	)	DENYING CERTIFICATE OF
KENNETH BLACK, ET AL.,	)	APPEALABILITY
	)	
Respondents.	)	
	)	

---

On June 14, 2018, Petitioner, who at that time was incarcerated in West Valley Detention Center, Rancho Cucamonga, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, contending that Respondents had deprived him of his rights under the Fifth and Fourteenth Amendments. On August 17, 2018, the Court dismissed the petition with leave to amend on the ground that the petition failed to clearly state a claim for relief. The Court admonished Petitioner to "set forth his claims as simply and concisely as possible, indicating which conviction or sentence he is challenging and on what grounds." (Doc. No. 6 at 2.) On September 7, 2018, Petitioner filed a First Amended Petition. For the following reasons, the First Amended Petition is dismissed without prejudice.

1       As the Court previously instructed Petitioner, the purpose of  
2 habeas corpus is to attack the legality of a conviction or the length  
3 of a sentence. *See Preiser v. Rodriguez*, 411 U.S. 475, 486-88 (1973);  
4 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979). In his First  
5 Amended Petition, however, as in his initial petition, Petitioner has  
6 recited a jumble of allegations regarding his arrests, prior prison  
7 terms, and incarceration. For example, it appears that Petitioner is  
8 attempting to challenge, alternatively, his illegal arrests, unlawful  
9 jail terms, and "excessive term of parole," but without indicating  
10 when these events occurred, who was responsible, and which of his  
11 federal constitutional rights were violated. Moreover, Petitioner  
12 fails to identify any state court conviction that he wishes to  
13 challenge by way of this section 2254 habeas corpus petition.

14       Furthermore, the Court has now received undelivered mail that  
15 indicates that Petitioner is no longer in the custody of the West  
16 Valley Detention Center. As such, there is no longer any relief that  
17 the Court can grant Petitioner in federal habeas corpus and,  
18 therefore, the First Amended Petition is moot. For these reasons, the  
19 First Amended Petition is dismissed without prejudice.

20       Finally, because Petitioner has not made a substantial showing of  
21 the denial of a constitutional right or that the Court erred in its  
22 procedural ruling, Petitioner is not entitled to a certificate of  
23 appealability. *See* 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b);  
24  
25  
26  
27  
28


1 *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*,  
2 529 U.S. 473, 484 (2000).

3 IT IS SO ORDERED

4 DATED: April 30, 2019

5  
6   
JESUS E. BERNAL  
UNITED STATES DISTRICT JUDGE

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23 Presented by:

24   
25  
26 PATRICK J. WALSH  
UNITED STATES MAGISTRATE JUDGE

27  
28 C:\Users\MaynorGalvez\AppData\Local\Temp\notesEDD4B7\proposed order.wpd